with exchange areas within the BTA[2] shall be required to submit a composite bid. This bid must be equal to or greater than 70% of the high bid submitted by non-telephone companies for the other available frequency blocks serving that BTA. In this way, the Commission can be assured that it will receive a fair value for the spectrum. While this bid will not be the highest possible bid, the language used by Congress in adopting the competitive bidding provision of the Budget Act (including the mandate that the Commission consider "bid preferences" and other measures to assure PCS availability to rural telephone companies) clearly evidences an intent that the revenue generating goals of the bidding process be tempered to ensure service to rural areas and participation by rural telephone companies.

Under this arrangement, the telephone companies within a given BTA could establish a single system, or a confederation of separate systems, as they see fit. Because each telephone company has its own separate certificated area, coordinated coverage throughout the BTA could be planned and implemented quickly. Thus, this arrangement would have the public interest benefit of expediting service throughout the BTA, whereas another licensee would concentrate on the most populated area, and would

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[2] It is assumed herein that the Commission will adopt the BTA as the smallest area to be licensed for PCS, as was done in the case of 900 MHz narrowband PCS. See First Report and Order, FCC 93-329, 8 FCC Rcd. _______ (released July 23, 1993). In the event that the Commission adopts the MTA, LATA, or some other definition of the smallest area to be licensed, the above formula for calculating the bid would be adjusted accordingly.

extend service to rural areas very slowly (if at all). This safeguard would further Congress' mandate to ensure "the development and rapid deployment of new technologies, products and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;" See amended Section 309(j)(3)(A) (emphasis added).

B. As a less desirable alternative, the Commission should require one urban licensee to protect and coordinate with rural telephone operations.

A less desirable alternative to a BTA set-aside for rural telephone companies would be a requirement that one PCS frequency block be restricted to microcell technology in any urban area within the BTA, such that the spectrum could be reused by rural telephone companies within a few miles of the city limits, if necessary to ensure service to rural exchanges. This approach would help ensure that rural areas surrounding population centers (particularly in the western states) would not go unserved. As discussed above, many western cities are surrounded by rural communities only a short drive from their borders. A higher powered PCS operation on the last available frequency block in that urban area would preclude PCS operations by rural telephone companies serving nearby, sparsely populated areas.

Under this second approach, rural telephone companies would be entitled to use of one block of frequency spectrum within their rural exchange area, while valuable PCS services could still be provided to major population centers by other entities, on all available PCS spectrum. For the frequency block designated for rural telephone operations, the urban licensee would be required to employ the microcell technology which the Commission has contemplated for PCS from the beginning. See Notice of Inquiry, 5 FCC Rcd. 3995, 3996-7 (1990). Thus, restricting this licensee to low powered operations (and heightened interference protection to any nearby rural area) should not constitute an undue burden, or render the spectrum unproductive. Instead, this licensee could concentrate on such services as wireless offices, and service to pocket phones in high population areas such as shopping malls.

The urban licensee would be free to negotiate with the telephone companies in surrounding rural areas to operate a single system, or a coordinated group of systems. In this way, the urban licensee could potentially avoid the interference restrictions, and would gain the benefit of having a ready made group of business partners who would expand the urban coverage into a regional system, at their expense. The telephone companies would also constitute an established sales force to effectively market the regional service. Thus, under this negotiation option, the urban licensee would be no worse off, and in all likelihood better off, than the licensees on the other PCS frequency blocks.

To determine the bid to be paid by the rural telephone companies for their portion of the BTA to be licensed under this arrangement, the Commission should take the high bid submitted for that block of spectrum, and should divide it by the population of the BTA. This per capita rate should then be multiplied by the population of each certificated area to determine the proportionate amount of the bid to be paid by each rural telephone company. This amount should then be discounted by 20% to 30%, in order to account for the higher costs of service in rural areas. The high bidder would pay the balance of its bid. This method would again ensure that the Commission receives the lion's share of the high bid, while at the same time fulfilling its rural service mandate. These above approaches would both be in keeping with Congress' instruction that, in order to ensure rural telephone company participation in PCS, the Commission "consider the use of tax certificates, bidding preferences, and other procedures." See amended Section 309(j)(4)(D) (emphasis added).

C. Other measures should be adopted to enforce Congress' mandates.

The above alternative licensing schemes are appropriate to implement the dual congressional goals of ensuring the rapid deployment of services to rural areas and protecting the viability of rural telephone companies. Rural telephone companies are not the only group described as a "licensing objective" in the Budget Act. However, rural telephone operations are the only activity which is subject to the dual mandate described above. And rural telephone operations are particularly susceptible to a significant loss of the ability to provide universal telephone service if their prime customers are lost to PCS competition. Thus, while it may not be appropriate for the Commission to establish a frequency block set-aside for the other protected groups (i.e., small businesses and minority/women owned businesses), the Commission must provide full protections to rural telephone companies. However, the Commission should adopt certain general protections to safeguard the interests of all of the identified groups.[3] In particular, the Commission should:

(1) Adopt bid multipliers for all protected groups, whereby every dollar bid by such entity will be multiplied by a predetermined factor (such as 1.5) to ensure that the protected entity's bid will be competitive with others.

(2) Adopt extended payment schedules for the protected groups, which would allow them to make more competitive bids by spreading payments out over a reasonable period of time. This extended schedule should take into account the source of financing to be used by the protected entity, so that payments would not begin until, e.g., loan approvals could be obtained and funds disbursed. The Commission should also consider adopting graduated payment schedules, so that payments are low at first,

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[3] In this regard, it should be noted that many (if not most) rural telephone companies are "small businesses" as defined by the Office of Management and Budget's Standard Industrial Classification Manual (page 282). See 13 CFR §121.601. Also, many of these companies have significant minority and/or female ownership. As noted in Section 1 above, Petitioners' membership includes telephone operations owned by Native Americans to provide service to Indian reservations. Thus, by protecting rural telephone operations, the Commission is in most cases fulfilling multiple Congressional mandates.

and increase over time as the system becomes operational and revenues increase.

(3) Allow payment of at least a portion of the bid amount by royalties, derived from the revenues received upon provision of service. The Commission could consider a flexible royalty schedule, whereby a greater portion of the bid could be paid by royalties upon a showing to the Commission that the system is constructed and has steady revenues. This would allow the licensee greater flexibility in making payments based on revenues (which may fluctuate from time to time) while at the same time providing the Commission with some assurance that the payments will be made.

(4) Adopt a tax certificate program to provide financial incentive for the protected groups to pursue PCS licenses.

(5) Designate at least one block of spectrum for licensing by geographic area small enough to allow meaningful participation by the protected groups. One frequency block for smaller service areas would be in keeping with RMTA's earlier suggestion to license telephone companies by certificated telephone service area. See January 8, 1993 Reply Comments of RMTA at pp. 7-8. BTAs are often as large as metropolitan statistical areas (MSAs) and rural service areas (RSAs), which in some instances may be too large an area to facilitate small business participation. This safeguard would be in keeping with the Congressional directive to "prescribe area designations and bandwidth assignments to promote" an equitable distribution of licenses and

economic opportunity for the protected groups Congress has identified. See amended Section 309(j)(4)(C).

Conclusion

In light of the foregoing, it is respectfully requested that the Commission reopen the record to solicit additional comments on the above matters; and that the Commission adopt the above recommendations of the Petitioners, so as to fulfill its Congressional mandate.

Respectfully submitted,

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